

IN THE UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF ALABAMA
EASTERN DIVISION

DAVID DAVIS,)	
)	
Plaintiff,)	
)	
vs.)	CIVIL ACTION NO. 3:06-cv-00544-VPM
)	
PHENIX CITY, ALABAMA, <u>et al.</u>)	Judge Vanzetta Penn McPherson
)	
)	
Defendants.)	
_____)	

ATTACHMENT E

November 1, 2004

To Fire Chief Jerry Prater:

This grievance is in regards to a situation that occurred on October 22, 2004 at Station 1. On this date the Assistant Chief on duty for A-Shift, Kenny Johansen, left Station 1 to go work on the concrete floors at Station 3. He had informed Station 1's Captain, Rick Hamby, that he would be the Acting Assistant Chief in his absence. In addition, he also directed that Part-time Firefighter, Norman Cordell, would be the Acting Company Officer while Captain Hamby was the Acting Assistant Chief. In spite of the fact that I am a career employee, and hold the rank of Sergeant, I was not allowed to act as the Company Officer, and this is where the basis of my grievance begins.

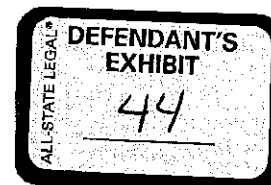
The organizational chart, lists the rank structure within the Fire Department. The rank of line personnel shows that it goes from the Assistant Chief, Captain, Sergeant, and then Firefighter. According to this organizational system, in which the Department is built upon, the rank of Firefighter, much less a Part-Time Firefighter is below that of the rank of Sergeant.

This organizational rank structure is important when it comes to applying the rules, regulations, and procedures within our department, and how we operate. In our Overtime Policies, in the Standard Operating Procedures (S.O.P's.), it states... that every consideration needs to be that employees only work overtime in the same rank structure, the exception being... when it is necessary, that employees can work one rank structure above or below. This means, according to our organizational chart, and (S.O.P's.), that a Firefighter cannot work in the position of Company Officer.

Our Swap Policies in the Standard Operating Procedures, works in much the same way as the Overtime Policy, in thatpersonnel can only swap with another department member of equal or higher rank. This again demonstrates that according to our own organizational chart, that a firefighter would never be allowed to work in a Company Officer's position.

The Career Development Guide is provided to allow employees to maximize their opportunities for career development and advancement.. it states that through career development employees should have opportunity for higher salaries, increased responsibility and authority. It also states that the department in turn, must contribute to an environment, which fosters employee motivation, and improvement, with opportunities to develop and succeed. I feel that the situation that occurred was not consistent with this statement. The requirements to act as a Company Officer, according to the career development guide, require that an employee first be a certified firefighter and E.M.T. Further more, employees must be a certified firefighter for two years, with at least a one year minimum at Phenix City to test for the Sergeant position. In addition to the time required employees must be apparatus operator-pumper and aerial, E.M.T., and certified fire inspector, with 33 semester hours from an accredited college. This does not include the fact that employees must compete to obtain the rank of Sergeant in promotional exams.

I feel that as an employee who has dedicated his adult life to Phenix City Fire/Rescue, and tried in every way, through advanced education and training, to further my career, and at the same time,



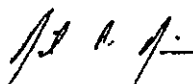
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become a better asset to the community that this situation has demoralized and insulted me, not to mention discouraged my determination to advance and succeed in this organization. I feel as though I was not given the opportunity that should be allowed to serve as an Acting Company Officer, this according to our own rank structure and rules, regulation, and procedures of Phenix City Fire/Rescue. I have never in my career here in Phenix City, seen an employee allowed to act in a role that was two positions above their rank. I feel that this act was unfair, unjustified, and unprecedented. Since I am a career employee who has the rank, qualifications and time required to act in this role, I feel that I should have been allowed to perform this duty, in that I meet all requirements set forth by our department, and I am not sure that a Part-Time employee does. It is a considerable injustice to all employees that have dedicated their lives through their service and loyalty to Phenix City/Fire Rescue, to have their professionalism and livelihood compromised by an employee who not only does not meet the minimum qualifications, but does not conform with the standards that our own career employees must meet to perform the duties in which was required on the day in question. This according to the only policies that I have known and worked under in my career at Phenix City.

I also feel that as a member of public safety that this situation threatened my safety and health. In addition, I also feel that there was a risk to the safety and health of the public, and other members of our department. I did not, and do not, feel comfortable risking my life in the performance of the missions required of our department with someone I do not know, or trust. I do not know, as I would with the other members of our department, this part-time employee's level of job skills, experience, or expertise. I do know that the career employees of Phenix City have to meet certain requirements, and training. In addition, our career employees also have to successfully completing rigorous competitive test to reach a rank, and level, to perform our missions safely and effectively, especially in the capacity of a supervisor, where life and death decisions are made. I do not know if this employee meets these standards. Nor do I know if he understand the various rules, regulation, or procedures, required to being operational safe and effective, within our department, and it's mission of protecting the public. I feel that these issues cause me to have a major concern for my safety and health, and is a significant motive for this grievance.

Sincerely,



David P. Davis
Sergeant, Phenix City Fire/Rescue

Sgt. David Davis

Nov. 5, 2004

Concerning your letter of Nov. 1, 2004.

First of all thank you for bring it to our attention that this matter is not covered under the guideline of the Merit System or Department SOPs. This can be taken care of for future situations.

I ask you to consider that this is the first opportunity for this department to utilize part-time employees in the capacity of Firefighters. We have been short on personnel for various reasons. The intent was to fill positions temporally while our Fire Personnel were participating in the war on terrorism in the U. S. Armed Forces. Also to allow time for this department to hire and train new full-time personnel to replace those who have left for various reasons. Three additional personal are on the disable list and there positions cannot be filled.

As far as your questioning of another persons credentials as a part time employee. This is the responsibility of the Assistant Chief and he is aware that the person involved is a 15-year Firefighter with Driver/Engineer experience as well as being a Company Officer for 5 years. This could also be an opportunity for you to learn from a more experienced person than yourself. A cooperative attitude would show a sign of maturity on your part.

Your safety or the safety of others in the Company in question is not jeopardized by the decision to place this individual in charge of a company. He has served in that capacity before with positive results.

I encourage you to keep an open mind in matters of this nature.

You have been given opportunities to serve in a higher position on many occasions. This is primarily because we have a young department and it is important for future development in all job categories.

This was not meant to discredit or discourage anyone.

Jerry Prater
Fire Chief

